

HOUSE BILL 520

By Ramsey

AN ACT to amend Tennessee Code Annotated, Title 3, Chapter 1; Title 10, Chapter 3; Title 10, Chapter 5; Title 10, Chapter 8; Title 10, Chapter 1 and Title 40, Chapter 39, relative to libraries.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Section 10-1-104, is amended by deleting the section and substituting instead the following:

(a) The functions of the secretary of state, acting through the division of public libraries and archives, shall include the following:

(1) Collecting, preserving, and providing public access to archival material and materials of historical, documentary, and reference value, and literary works or printed matter that may be considered by the division of special interest to the citizenship of this state;

(2) The distribution and exchange of publications of the state that may become available from time to time;

(3) The collection and distribution of reference material to state officials and employees and public agencies that may be entitled to the reference material;

(4) The encouragement of library development throughout the state by means of advice, guidance, and library extension services, in the course of which the division is empowered to enter into local, regional, or interstate contracts with competent agencies in the furtherance of library services. The contracts are subject to the prior approval by the secretary of state; and

(5) Other functions that may be designated and authorized from time to time or that may properly belong to the administration of an up-to-date library and archives for the state.

(b) The enumeration of the specific items in subsection (a) shall not be deemed to exclude any other activities that the division may think proper to be handled by it and by the state librarian and archivist.

SECTION 2. Tennessee Code Annotated, Section 10-1-112, is amended by deleting the section in its entirety.

SECTION 3. Tennessee Code Annotated, Section 10-3-101, is amended by deleting the section and substituting instead the following:

The legislative body of a county or the governing body of an incorporated city or town shall have the authority to establish and maintain, under state and local law, a free public library, or give support to any free public library already established therein, or contract with another library for library service for use of the inhabitants of the county, city, or town, or enter into contractual agreements with one (1) or more counties or cities for the joint operation of a free public library.

SECTION 4. Tennessee Code Annotated, Section 10-3-103, is amended by deleting the section and substituting instead the following:

(a)

(1) Except as provided in subdivision (a)(2), where a county legislative body or the governing body of a city or town, in lieu of giving support to a free public library already established, or of contracting with another library for library service, or of contracting with other counties or cities for the joint operation of a free public library, establishes an independent free library of its own, it shall appoint a board of seven (7), nine (9), or eleven (11) members. Not more than one (1) official each of the county and of the city governing bodies shall serve on the board. The members shall serve without salary, at least three (3) for one (1)

year, two (2) for two (2) years, and two (2) for three (3) years. If the board expands to more than seven (7) members as provided in this subdivision (a)(1), the additional members shall be appointed by the county and city legislative bodies to terms of one (1), two (2), or three (3) years. All successors shall serve for terms of three (3) years. Board members may serve two (2) consecutive terms and may be reappointed after a minimum three-year break in service.

(2) In counties or cities having a population of more than four hundred thousand (400,000), according to the 2010 federal census, or any subsequent federal census, in which the mayor has assumed the powers of the library board as provided in subsection (c), the terms of advisory board members shall be established as provided in subdivision (a)(1) with the exception that board members may serve as many consecutive terms as stated in their by-laws.

(b) Where a county legislative body, city governing body, or a county having a charter form of government elects to participate in the joint operation of a public library maintained by the county and one (1) or more cities within the county, the library board responsible for administering the library shall be appointed by one (1) of the following methods:

(1) Except as provided in subdivisions (b)(2) and (3), a library board of seven (7), nine (9), or eleven (11) members may be appointed by the county legislative body and city governing bodies that are parties to the agreement, the number appointed by each to be determined according to the ratio of population in each participating city and in those areas of the county that lie outside the cities, based on the most recent federal census; provided, that each governmental body shall appoint at least one (1) member. Terms of office, qualifications of members, and powers and duties of the board shall be in

accordance with §§ 10-3-101 - 10-3-108. Board members may serve two (2) consecutive terms and may be reappointed after a minimum three-year break in service;

(2) In accordance with a contract as provided in § 5-1-113; or

(3) In accordance with a private act.

(c) A county or city having a population of more than four hundred thousand (400,000), according to the 2010 federal census or any subsequent federal census may, by a two-thirds (2/3) majority vote of its legislative body, vest supervisory authority over the public library system with the mayor. The mayor in the county or city shall exercise all powers which would otherwise be exercised by the library board pursuant to § 10-3-104. A library board shall be retained in the county or city in accordance with this section, but shall serve in an advisory capacity to the county or city mayor, as applicable.

SECTION 5. Tennessee Code Annotated, Section 10-3-104, is amended by deleting the section and substituting instead the following:

The members of the library board shall organize by electing officers and adopting bylaws and regulations. The board has the authority to direct all the affairs of the library, including the authority to appoint a library administrator. The library administrator shall direct the internal affairs of the library, including hiring and directing such assistants or employees as may be necessary. The board may make and enforce rules and regulations and establish branches of service at its discretion. The board may expend funds for the special training and formal education of library personnel; provided, that such personnel shall agree to work in the library for at least two (2) years after completion of such training and education. The board may receive donations, devises, and bequests to be used by it directly for library purposes. The library board shall have line-item control of the budgeting and expenditure of all moneys collected, donated, or

appropriated for the library fund, and may set aside for future use any unencumbered funds remaining in the general fund or any other funds of the library at the end of the fiscal year. The board may hold and convey realty and personal property and negotiate leases for and on behalf of such library. The board shall furnish to the state library agency such statistics and information as may be required, and shall make annual reports to the county legislative body or city governing body.

SECTION 6. Tennessee Code Annotated, Section 10-3-106, is amended by deleting the section and substituting instead the following:

(a) All county or city tax funds for library purposes, raised by bonds or taxation, shall be held by the county or city treasurer separate from other funds.

(b) All library accounts of every character shall be audited annually by or under the county legislative body or city governing body.

SECTION 7. Tennessee Code Annotated, Section 10-3-109, is amended by deleting the section in its entirety.

SECTION 8. Tennessee Code Annotated, Section 10-3-110, is amended by deleting the section and substituting instead the following:

The title to all property acquired by a library board operating under this chapter shall be taken in the name of the county or city for the use and benefit of the public library, and the proceeds from all activities conducted by the library board or from any disposition of its assets shall be taken in the name of the county or city for the use and benefit of the public library.

SECTION 9. Tennessee Code Annotated, Section 10-3-111, is amended by deleting the language "county legislative body" and substituting instead the language "county or city legislative body".

SECTION 10. Tennessee Code Annotated, Section 10-5-102(b), is amended by deleting the subsection and substituting instead the following:

(b) A member of a regional library board shall represent and reside in the county or municipality from which the member was elected. If a member moves from or no longer resides in the county or municipality from which the member was elected, the member must vacate the member's office. If a vacancy occurs on the board, a successor shall be elected for the unexpired term at the next meeting of the governing body of the county or the municipality in which the vacancy occurred. Members shall be elected for no more than two (2) successive terms and may be reappointed after a minimum three-year break in service. A member of the regional library board who is not an active member of a county library board is designated an ex officio member of the county board. A member of the regional library board may be an active member of a county library board.

SECTION 11. Tennessee Code Annotated, Section 10-5-103, is amended by deleting the section and substituting instead the following:

A regional library board has the following duties and functions:

- (1) Review and concur in the appointment of the chief administrative officer of the regional library program within its region;
- (2) Review and submit to the secretary of state recommendations on the annual program for administering the public library service within its region; and
- (3) Review the activities performed in carrying out the annual program and submit comments and recommendations to the secretary of state regarding such activities.

SECTION 12. Tennessee Code Annotated, Section 10-5-104, is amended by deleting the section in its entirety.

SECTION 13. Tennessee Code Annotated, Section 10-5-106, is amended by deleting the section and substituting instead the following:

(a) The secretary of state, acting through the state librarian and archivist and the division of public libraries and archives, is authorized to accept donations and bequests on behalf of the regional library system.

(b) The secretary of state, acting through the division of public libraries and archives, may lease real estate as may be necessary for library purposes. Any lease shall be between the state of Tennessee and the lessor and shall contain a clause that its continuance shall be subject to necessary allotments from the secretary of state and the availability of other funds.

SECTION 14. Tennessee Code Annotated, Section 10-5-107, is amended by deleting the section in its entirety.

SECTION 15. Tennessee Code Annotated, Section 40-39-216, is amended by deleting the section and substituting instead the following:

(a) Public library boards shall have the authority to reasonably restrict the access of any person listed on the sexual offender registry. Such authority may be delegated by the board to a library administrator.

(b) In determining the reasonableness of the restrictions, the board shall consider the following criteria:

(1) The likelihood of children being present in the library at the times and places to be restricted;

(2) The age of the victim of the offender; and

(3) The chilling effect of the use of the library by other patrons if the offender is not restricted.

(c) Nothing in this section shall prevent the board from imposing a total ban of the offender's access to a public library so long as the criteria in subsection (b) are considered.

(d) The restrictions of this section shall be effective upon the mailing of notice to the address of the offender as listed on the sexual offender registry. The notice shall state with specificity, the time and space restrictions. The board, or if so delegated, the library administrator, shall state in the notice that the criteria in subsection (b) have been considered.

(e) A registered sex offender who enters upon the premises of a public library in contravention of the restrictions five (5) days after mailing of the notice may, at the discretion of the library administrator, be prosecuted for criminal trespass pursuant to § 39-14-405.

SECTION 16. This act shall take effect July 1, 2017, the public welfare requiring it.